

a separate crime under the Federal Code and the Uniform Code of Military Justice to kill or injure an unborn child during the commission of certain existing Federal crimes.

Our bill, the Unborn Victims of Violence Act, would create a separate offense for unborn children. It would acknowledge them as the victims they are. Our bill would no longer allow violent acts against unborn babies to be considered victimless crimes. At least 24 States already have criminalized harm to unborn victims, so this is not a new concept. Another seven States have criminalized the unlawful termination of a pregnancy.

In November of 1996, a baby, just 3 months from full term, was killed in Ohio as a result of road rage. An angry driver forced a pregnant mother's car to crash into a flatbed truck. Because the Ohio Revised Code imposes criminal liability for any violent conduct that terminates a pregnancy of a child in utero, the prosecutor successfully tried and convicted the driver for recklessly causing the baby's death. Our bill would make an act of violence such as this a Federal crime. It would make sure it was always covered. This is a very simple step, but one that will have a dramatic affect. It is, quite frankly, a question of justice.

Let me make it clear to my colleagues in the Senate that we purposely drafted this legislation very narrowly. For example, it would not permit the prosecution for any abortion to which a woman consented. It would not permit the prosecution of a woman for any action—legal or illegal—in regard to her unborn child. That is not what the intent of this legislation is all about. This legislation, further, would not permit the prosecution for harm caused to the mother or unborn child in the case of medical treatment. The bill would not allow for the imposition of the death penalty under this act.

It is time we wrap the arms of justice around unborn children and protect them against criminal assailants. Those who violently attack unborn babies are criminals. The Federal penalty should, in fact, fit the crime. I strongly urge my colleagues to support our legislation. We have an obligation to our unborn children. This bill will bring about justice. It is the right thing to do.

I thank the Chair and yield the floor.

Ms. LANDRIEU addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. Mr. President, I ask unanimous consent to speak for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ADOPTING A CHILD

Ms. LANDRIEU. Mr. President, I rise this afternoon to speak on a subject

that is very important to many Members of this body. In fact, Senator DEWINE from Ohio has been one of the leading advocates for adoption. Before he leaves the floor, I wanted to acknowledge that. He, along with many Members, including the occupant of the Chair, Senator VOINOVICH, have been very active in the promotion of laws and policies that would help us to reach our goal of finding a loving and nurturing home for every child in this world that needs one. Many of us believe that it is a fundamental right to grow up in a home with a family, as opposed to in a hospital, or some type of institution.

I rise to bring the body up to date on some of the things that we have accomplished and that we should be proud of, as well as some of the challenges that are still before us as a Congress. In the short time ahead, I am hopeful the appropriate committees will have hearings on relevant legislation in order to move the adoption debate along quickly. There are literally millions of children and families depending on us to act.

First, let me congratulate Senators CHAFEE and ROCKEFELLER for leading the successful effort last year to pass the Adoption and Safe Families Act. Last week, President Clinton and Mrs. Clinton hosted the first awards ceremony associated with the passage of that Act. The great news is that we have taken a mighty and important step forward because since the passage of the Act 36,000 American children have been placed in foster care while 15,000 foreign children have found permanent homes—all with wonderful families throughout America. Moreover, at least 35 States were acknowledged for their outstanding work in this area at the White House ceremony last week.

In some States, the increases have been 20 percent over last year's numbers, while others have seen 50- to 70-percent increases over the previous year. This has occurred because the law we passed gave the necessary tools to parents, social workers, community activists, and to local elected officials so that the dream of a family became a reality for these 36,000 children.

The problem is we still have over 500,000 children waiting for a family to call their own. Through this bill, many of the children in foster care, who range from all ages, races, medical conditions, and backgrounds, will be able to one day return to their biological families. However, despite our best efforts, unfortunate circumstances exist which prevent some of these children from returning home. Consequently these children must be moved to a permanent place. The Adoption and Safe Families Act will provide the tools for us to help these children in terms of guidelines and the necessary resources.

Again I want to thank all the members, particularly Senators ROCKE-

FELLER and CHAFEE, for their leadership in making this law possible. It is working and we just need to continue our efforts because many children are still waiting for a home to call their own.

That leads me to the next three points.

We have accomplished some wonderful things. But in this Congress during the next few weeks, some important tasks still remain to be finished. If we fail, there will be several million children left waiting.

Next week, under the leadership of the distinguished Senator from North Carolina, Senator HELMS, we will be having our first hearing on the Hague Treaty, the International Convention for Adoption. The purpose of the hearing will be to consider the Intercountry Adoption Act, legislation which seeks to implement the objectives of this Treaty. I am an original cosponsor of this measure, along with Senator HELMS, Chairman of the Senate Foreign Relations Committee, and the Ranking Member, Senator BIDEN from Delaware.

This Treaty is very important because, as we endeavor to ensure that every child in America who needs a home will have one, it is also important for us to realize that there are millions of children around the world—in South America, in Africa, in Latin America, in Eastern and Western Europe, and Asia—who are growing up in horrible conditions. Some of them are in institutions with unspeakable conditions and there are others who are actually living in the streets.

With all of our global successes, it is appalling and unacceptable that these conditions exist anywhere in the world. We can do something about it.

Today, the Internet will allow us to do more than we ever dreamed possible—connecting families with children, allowing agencies to work more closely together, and, most importantly, allowing for improved communications between governments. The language barriers are coming down as technology opens up greater opportunities.

But none of this can work without a body of international law that gives us the rules and regulations for how this is going to take place. We must eliminate the corruption, the outrageous trafficking of children, and the extraordinary fees that are sometimes being paid illegally. So if we are to have protection for children, protection for families, and protection for the legal framework, this Treaty is absolutely essential.

I urge my colleagues to pay special attention next week during this hearing, and I urge them to learn more about this issue, because there is something we all can do; that is, to move this piece of legislation forward with

the few minor differences that exist between both sides of the aisle, approve the treaty, and then implement it.

If my colleagues are like me—and I think many of them are—when we get a few minutes to watch television we can view programs such as *Save the Children* where there are thousands of children who are in need. I sit there and think about what I could do as one individual sponsoring one child. It does not seem to be enough. But in many instances reaching out to sponsor that one child is quite enough. Millions of Americans have the opportunity to do the same.

I am looking forward to the Senate Foreign Service Committee's hearing on adoption next week. I am confident that we can solve the differences that may exist among the interested parties who are working to move this important legislation forward.

In addition to the implementation of this international Treaty, we are faced here in the United States with some additional challenges in our adoption laws. One of the things we failed to accomplish, which perhaps may have been an oversight when we passed the Family and Medical Leave Act, was a requirement that employers offer adoptive families the same benefits as birth families.

I believe the Family and Medical Leave Act made progress toward equal treatment for adoptive families, but discrepancies remain for adoptive families who seek the same employee benefits as birth families. This law enables both adoptive and birth families to take up to twelve weeks of unpaid, job protected leave. Some employers, however, permit employees to use sick leave or provide paid leave for birth parents, but do not provide these same benefits for adoptive families.

As an adoptive parent, I can certainly attest to the fact that whether the child is biological or comes as a gift through adoption, the stress on the families are very much the same. This is why the expansion of the Family and Medical Leave Act is so important. It must include the thousands of families in our country who adopt either domestically or internationally every year. This inclusion will allow Congress to say that building a family through adoption is a blessing for children and parents. This is one important goal I hope we can achieve this Congress.

In addition, I hope we can extend the adoption tax credit we passed several years ago, which is now \$5,000 based on actual expenses, and double it, making it \$10,000. This will make it real and workable, especially for those families who adopt special needs children.

Currently, this tax credit is working but it can be improved for those parents who adopt special needs children—older children, handicapped children, children with special emotional challenges, sibling groups, or international

adoption. Unless you can demonstrate all expenses in connection with the adoption you are unable to avail yourself of the tax credit.

In many ways, when you take a special needs child, there are no expenses associated with the adoption itself because the agencies of course want to place these children. I believe it would be in the best money this Congress could spend to provide tax credits, tax credits to families who adopt hard-to-place children and sibling groups, and others with difficulties.

The Government should state that if you will take a child into your home and call it your own, we will give you a \$10,000 tax credit. A family who would adopt two children would get a \$20,000 Federal tax credit. It is my hope that they would not have to pay Federal taxes for many years because these families are doing something great for their community and country.

Mr. President, in closing, let me show you a picture of a beautiful little girl as an example of what I have been talking about. This child is coming from China. Her mother, Cheryl Varnado, wrote me a letter about little Anna Grace Cai Yong Lin.

Her letter reads: Senator, would you fly an American flag over the Capitol today so that I can give it to our little girl in remembrance of her first day in the United States?

I commend the Government of China for the wonderful work they are doing to provide homes for millions of Chinese children. Today they are doing a much better job in this area. The challenges faced by this country are great. There are over one million children without families who will grow up in institutional care unless someone brings them into their home and provides them with the love of a family.

We are happy for Anna and her new family. The flag flying over the Capitol today will remind us of her arrival to the United States and the thousands of other children that have come from all over the world to find homes in America.

In conclusion, a wonderful couple that won an award was honored on the front steps of the Capitol earlier today for adopting not one, not two, but 30 children of all ages, races, physical handicaps, and challenges. They received the Norman Vincent Peale Award for outstanding service to our country. I commend Penny and Chuck Hauer.

Mr. President, I ask unanimous consent to have an article printed in the RECORD about this couple.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Some things are in short supply around Penny and Chuck Hauer's house: Toilet paper. Money. Bathroom space.

But not love.

It radiates in the heart-melting smiles of Carissa, brain-damaged as an infant, who is 17 and occupies a wheel-chair.

It's reflected in the sparkling eyes of Calli, who is 11 and has Down Syndrome and a huge crush on skater Scott Hamilton.

It zaps you like electricity in the gnarled handshake of Clifton, who is 21 and has cerebral palsy and a fondness for country music.

In all, over 20-some years, the Hauers have adopted 35 physically and/or mentally disabled children of all races—black, white, Korean, Hispanic. Nine have died. Others have grown up and moved out on their own.

All were among those hardest to find homes for, the ones nobody else wanted.

"The world says these kids should be in a group home, or in a hospital or an institution," says Penny Hauer. "That's not our philosophy."

Sharing an eight-bedroom, three-bath home are 21 adopted siblings, ages 8 to 32, plus two of the Hauers' five offspring and a 7-year-old grandson.

"It was a four-bedroom house but we've made some revisions," Penny Hauer says. "The living room is a bedroom. The dining room is a bedroom."

"Bath time can be a problem. If you want a bath every night, fine—get in line."

In a family tradition, the children all have names with C—Catey, Cotey, Courtney, Curtis, Colin . . . and on it goes.

Much has changed in the year since a newspaper story introduced readers to this remarkable family and their battle with the Social Security system.

They've been on national TV. They've gotten back in touch with a lost son. They've made lots of new friends.

And they have resolved the bureaucrats' mess that threatened the \$7,000 monthly Supplemental Security Income funding the family depends upon.

The Hauers moved here from Montana in July 1997 because the kids were being ridiculed and mistreated in the school system there, the parents said. The sale of their Montana home fell through, leaving them stretched beyond thin, paying two mortgages.

In August 1997, filing routine renewal forms at San Diego's Social Security office, the couple dutifully reported their deeds on two homes. They were notified three months later that their assets exceeded government allowances for Supplemental Security Income.

With help from an attorney and Rep. Duncan Hunter, R-El Cajon, the Hauers kept the checks coming while they appealed. Finally, in April, they solved the problem by selling the \$600,000 Montana home to a Vista couple for \$225,000.

Still, making ends meet is a struggle. The payment on the East County home is \$3,000 a month, groceries \$2,000. The family goes through three loaves of bread a day, two gallons of milk and two boxes of cereal.

Other changes have occurred. The Hauers have re-established contact with an adult son who was living on the streets in San Diego a year ago. They say he's in an apartment now, doing fine.

Chuck Hauer, 61, quit his part-time job because of high blood pressure. He gets a small pension from General Tire and Rubber in Akron, Ohio, where he worked until 1982 as a quality-control inspector.

Penny, who discloses her age to no one, has resumed volunteer work she gave up nine years ago when the family moved from Ohio to Montana. From her bedroom, she makes calls for a Toledo agency, Adopt America

Network, trying to match disabled children with families who will take them.

In three-ring binders, she has thumbnail descriptions of hundreds of kids and potential adoptive families in the agency's nationwide system. She gets new ones in every Monday's mail—two to five families, 10 to 20 children.

"In Los Angeles County (alone), each caseworker has 100 kids. They don't have time to make the matches," she said. "Somebody's got to do it."

Although there are never enough families, Penny Hauer is determined to make a difference. She tells excitedly of hooking up an Ohio couple just last week with three siblings, ages 2 to 4, in Escondido.

"I'm always looking," she said. "I want these kids to have a home."

The Hauers' own story dates to the mid-'70s, when they took in Charity April, a tot with cerebral palsy. The couple, then with four biological kids of their own, fell in love with the foster child and realized there were many more like her in need.

"We just decided to start adopting—not to adopt 35, but that's just what's transpired over the years," Penny Hauer said. "One takes all your undivided attention. When you have a group of children, they interact with each other."

Everyone has chores: Charity, 24, changes diapers for seven incontinent siblings. Cristy, 21, helps cook. Chet, 18, takes out the trash.

And the family may be growing. The Hauers have applied to adopt four more disabled orphans.

"I think when they carry me out of the house and I'm gone and dead, there's going to be somebody wrapped in my arms, because that's just the way I am," Penny Hauer said.

Today, the Hauers will squeeze some extra seats up to their 30-foot table—actually four oak tables stuck end to end.

After offering to provide Thanksgiving dinner to any armed forces member with no place to go, they learned Tuesday that they'll be joined by a mother and three young children whose Navy husband and father is away.

"It's all about sharing," said Penny Hauer. "I hope they like my cooking."

Foothills Republican Women's Club President Dawn Sebaugh, whose group adopted the Hauers last Christmas, has become a year-round helper and friend.

"It's just amazing," she said. "You wonder how someone could take care of, love and treat these children so well."

Sebaugh said her group will be helping the family over the holidays again this year.

"We will make sure Santa's there for Christmas," she said. "I know they could use a couple of extra bedrooms. I don't know if we can do anything (about that), but we're going to try."

Someone else who has fallen for the Hauers is Robert Stein of New York. An HBO producer of in-house promotional videos, he saw Penny Hauer's brief appearance on the "Rosie O'Donnell" show in February and was deeply moved.

Since then, Stein has spent several days with the family over repeated visits, filming a documentary at his own expense that he intends to pitch to his cable network.

"I was truly impressed witnessing these kids. They really do have a strong sense of love for each other," he said.

Stein said the Hauers' story could open more eyes and hearts to the disabled.

"People see disabled or handicapped kids or adults in the street, and a lot of times

people look down . . . or write them off as people they can't connect with," he said. "These people have been very selfless as far as welcoming kids who may not have had a family life."

"They've really nurtured kids who may have been forgotten in the system, and they've really blossomed."

Ms. LANDRIEU. Obviously, there are many great things we can do in this Congress to promote adoption. Many of them have already been accomplished. However, there is much more that should be done, beginning with acknowledging the great work of everyone who has worked on this issue in America and around the world. Finally, I am delighted that we are taking the necessary time today to bring this important issue to the attention of all of our colleagues.

I yield back the remainder of our time and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HAGEL). The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I understand we are in morning business with a 10-minute restriction on length of comments.

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAHAM. I ask unanimous consent to be able to speak for 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

### THREE BRANCHES OF GOVERNMENT

Mr. GRAHAM. Mr. President, I wish to speak on an issue which has already been addressed by several of our colleagues earlier in the week. Initially, I was reluctant to discuss this matter for fear of contributing to a charge of politicization of an issue which, in my judgment, should not be thought of as political but, rather, one to be judged and decided in the finest traditions of our Nation, the relationship of each of the branches of Government carrying out their appropriate responsibilities.

The reticence I had to discuss this issue was overcome when I heard some of the comments made about our Justice Department and about our Attorney General relative to the decision made to file civil claims on behalf of the Federal Government and the citizens of the United States against the tobacco industry.

The purpose of my remarks this afternoon is not to rebut comments made elsewhere; rather, it is my purpose to remind our colleagues of the bedrock principles upon which this body, upon which our Federal Government operates, the rule of law and the separation of powers.

The level of rhetoric on the question of whether the Federal Government should have initiated civil litigation against the tobacco industry has been very high. The level of analysis, unfortunately, in my opinion, has been quite shallow. In their haste to spring to the tobacco industry's defense and to, once again, heap partisan abuse upon the Attorney General and the Justice Department, some Members of Congress have disregarded the very nature of our system of government.

I have heard it said the Justice Department suit violates both separation of powers and the rule of law. In my opinion, these accusations turn the structure of our Government completely on its head. Nearly 200 years ago, Chief Justice John Marshall explained the powers of our coordinate branches of Government. In *Marbury v. Madison*, the seminal decision which established the concept of judicial review, the Chief Justice wrote: The powers of the legislature are defined and limited and that those limits not be mistaken or forgotten, the Constitution is written.

The Chief Justice went on to say it is emphatically the province and duty of the judicial department to say what the law is.

For the last 200 years, the American people have understood the respective roles of the three branches of Government. As the national legislature, our duty as Congress is to find and limit it to the role of making law. It is the executive branch's role, in part through the Justice Department, to enforce that law. It is the Judiciary's role to interpret the law. Each branch of Government must be left to do its work without interference from the other branches.

We in Congress have already done our job. We have made the laws which the Justice Department now seeks to enforce. Whether the Justice Department ultimately prevails is left to a third branch of Government, the judiciary. The only threat to the rule of law in filing this litigation on behalf of the American people against the tobacco industry is posed by those who seek to step beyond their proper relationship and usurp the power granted by the Constitution to other branches of Government. It is neither wise nor right for members in the legislature to attempt to tell the executive how to enforce the laws or to tell the courts how to interpret the laws. If we practice jurisprudence by press release, we become lawmakers, law enforcers, law judges. If we have learned anything at the end of this millennium, it is that such an aggregation of power is the antithesis of the rule of law and is, instead, the imposition of tyranny.

Throughout the world—from East Timor to Kosovo to Cuba—we encourage other countries to follow the rule of law. We must do no less here. We